

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AVRAM VINETO NIKA,

Petitioner,

v.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 3:09-cv-00178-JCM-WGC

ORDER

In this capital habeas corpus action, on June 12, 2019, the Court granted, in part, Avram Vineto Nika's habeas petition, and judgment was entered accordingly. See Order entered June 12, 2019 (ECF No. 186); Judgment (ECF No. 187). The Court granted Nika relief relative to the penalty phase of his trial. See *id.* Nika filed a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) (ECF No. 189), and the Court granted that motion, in part, and expanded the certificate of appealability. See Order entered October 4, 2019 (ECF No. 200); Amended Judgment (ECF No. 201).

The Court's Amended Judgment stated, in part:

IT IS FURTHER ORDERED AND ADJUDGED that Respondents shall either (1) within 60 days from the date of this order, vacate Petitioner's death sentence and impose upon him a non-capital sentence, consistent with law, or (2) within 60 days from the date of this order, file a notice of the State's intent to grant Petitioner a new penalty-phase trial, and, within 180 days from the date of this order, commence jury selection in the new penalty-phase trial.

* * *

IT IS FURTHER ORDERED AND ADJUDGED that the judgment in this action will be stayed pending the conclusion of any appellate or certiorari review in the Ninth Circuit Court of Appeals or the United States Supreme Court, or the expiration of the time for seeking such appellate or certiorari review, whichever occurs later.

1 Amended Judgment (ECF No. 201).

2 The respondents did not appeal. Nika, however, did appeal the denial of relief on
3 certain of his claims. On September 15, 2022, the Ninth Circuit Court of Appeals
4 affirmed. See Memorandum (ECF No. 206). On December 20, 2022, the Court of
5 Appeals denied panel rehearing and rehearing en banc. See Order entered
6 December 20, 2022 (ECF No. 208).

7 Nika then had until March 20, 2023, to file a petition for writ of certiorari before
8 the United States Supreme Court (see U.S. Sup. Ct. R. 13) but did not file a petition for
9 writ of certiorari.

10 Therefore, the time for Respondents to comply with the judgment began running
11 on March 20, 2023. Respondents then had 60 days—until May 19, 2023—to either
12 vacate Petitioner’s death sentence and impose upon him a non-capital sentence
13 consistent with law or file a notice of the State’s intent to grant Petitioner a new penalty-
14 phase trial. And, Respondents then had 180 days—until September 16, 2023—to
15 commence jury selection in a new penalty-phase trial.

16 On May 16, 2023, the parties filed a stipulation (ECF Nos. 211, 213 (corrected
17 stipulation), 215 (further corrected stipulation)), agreeing to extend by 60 days the time
18 for Respondents to comply with the judgment. The parties state in the stipulation that
19 they, along with the Washoe County District Attorney’s Office, are in discussions
20 regarding potential resolution of the case, but they require more time to complete those
21 discussions. The Court finds that there is good cause for the extension of time
22 requested by the parties.

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James C. Mahan
JAMES C. MAHAN
UNITED STATES DISTRICT JUDGE